

Message Text

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DRAFTED BY ARA/AND/CH - MR. STEVEN:LEE

APPROVED BY ARA - MR. MCNEIL

S/S-O: RCASTRODALE

/ARA:FWILLIS (SUBS)

L/ARA:FWILLIS (SUBS)

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TO AMEMBASSY SANTIAGO IMMEDIATE

C O N F I D E N T I A L STATE 112082

STADIS//////////

EXDIS FOR AMBASSADOR LANDAU

E.O. 11652: GDS

TAGS: PGOV, SHUM, CI

SUBJECT: LETELIER/MOFFIT ASSASSINATION INVESTIGATION:
EXTRADITION

REF: SANTIAGO 3184

1. FOLLOWING MEMORANDUM TO ARA WAS PREPARED BY L:

QUOTE: SUBJECT: LETELIER/MOFFITT ASSASSINATION INVESTI-
GATION: THE MONTEVIDEO EXTRADITION CONVENTION

REF: SANTIAGO 3184

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UNFORTUNATELY WE MUST DISAGREE WITH THE OPINION OF MR. ET-
CHEBERRY THAT THE EXTRADITION CONVENTION OF MONTEVIDEO OF
26 DECEMBER 1933 WOULD REQUIRE CHILE TO TRY A CHILEAN
NATIONAL IF CHILE REFUSED TO EXTRADITE THAT NATIONAL TO
THE UNITED STATES.

ARTICLE 21 OF THE MONTEVIDEO CONVENTION STATES THAT

THE PRESENT CONVENTION DOES NOT ABROGATE OR MODIFY THE BILATERAL OR COLLECTIVE TREATIES, WHICH AT THE PRESENT DATE ARE IN FORCE BETWEEN THE SIGNATORY STATES. NEVERTHELESS,

IF ANY OF SAID TREATIES LAPSE, THE PRESENT CONVENTION WILL TAKE EFFECT AND BECOME APPLICABLE IMMEDIATELY AMONG THE RESPECTIVE STATES.

WHITEMAN'S DIGEST OF INTERNATIONAL LAW STATES "THIS AGREEMENT IS NOT OPERATIVE IF THERE IS A BILATERAL TREATY IN FORCE BETWEEN THE PARTIES CONCERNED." (6 WHITEMAN 772) SINCE THERE IS PRESENTLY IN FORCE A BILATERAL EXTRADITION TREATY BETWEEN THE US AND CHILE, THE MONTEVIDEO CONVENTION CAN NOT BE APPLIED, AS BETWEEN THE US AND CHILE.

INTERNATIONAL PRACTICE IN DRAFTING MULTI-LATERAL EXTRADITION TREATIES INDICATES THAT WHEN A MULTILATERAL TREATY IS DESIGNED TO SUPERCEDE OR SUPPLEMENT BILATERAL EXTRADITION AGREEMENTS, THE PARTIES TO THE MULTILATERAL AGREEMENT EXPLICITLY STATE THIS INTENTION (SEE EUROPEAN CONVENTION ON EXTRADITION, ARTICLE 28 - SIGNED AT PARIS, DEC. 13, 1957.) END QUOTE.

2. REQUEST YOU DISCUSS THIS VIEW WITH ETCHEBERRY AND REPORT HIS COMMENTS. VANCE
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